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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/666,831

09/12/2003

Wade Littleton

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EXAMINER

HAND, MELANIE JO

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 05/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/666,831		LITTLETON ET AL.	
	Examiner		Art Unit	
	Melanie J. Hand		3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1, 2, 4, 5, 7 and 9 have been considered but are moot in view of the new ground(s) of rejection. The new ground(s) of rejection is necessitated by an amendment to the claims and presentation of new claims.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1 and 4-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Seneca (U.S. Patent No. 5,219,340).

With respect to **claim 1**: Seneca discloses a colloidal solution applicator in pouch form, whereas colloidal oatmeal is powdered or pulverized oatmeal contained within the pouch, which has a plurality of layers of porous material 14, one layer defining a top layer and one layer defining a bottom layer, having edges sealed together to form seam 16. (Column 4, lines 1-30). The seamed layers 14 define walls that define a cavity therebetween that contains powder. The seam 16 taught by Seneca is formed by stitches of thread and therefore is capable of keeping said powder between said top and bottom layers such that the powder is dispersed through said top and bottom layers of material 14. As is best seen in Fig. 2, Seneca teaches a pouch that is capable of positioning in the fly area of mens undergarment during wear of said garment.

With respect to **claims 4,5**: Seneca reveals that the pouch is formed from batiste cotton or other cotton combinations whereas batiste is a thin plain-weave (woven) cotton or linen fabric and gauze is simply defined as a woven cotton cloth used for dressing, bandages and absorbent materials, (Column 6, lines 15-20).

With respect to **claims 6,8**: Seneca teaches an oatmeal powder capable of absorbing water housed in a porous material that is capable of dispersing a colloidal oatmeal solution (i.e. aqueous) that is also thus permeable to water vapor molecules. Therefore the oatmeal powder is a moisture-absorbing powder. Since the material is vapor and liquid-permeable, it is also capable of absorbing perspiration (comprised substantially entirely of water), which causes odor and thus the oatmeal is also an odor-controlling powder.

With regards to **claims 7,9**: Chafe-reducing is defined as reducing irritation to the skin caused by friction and medicated is defined as containing something that serves as a remedy or is corrective, therefore, the non abrasive porous material and the colloidal oatmeal contained in the pouch taught by Seneca is sufficient for preventing irritation or scratching of the skin as well as "relieving rashes by soothing inflamed skin, conditioning the skin, fighting acne, restoring proper PH to the skin" (Column 5, lines 12-21).

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Seneca (5219340) in view of Raducu (DE 04301010 A).

With respect to **claim 3**: Seneca does not teach a pouch made of linen material. Raducu teaches a granulated mixture (i.e. of oats) packed in small linen bags or pouches used for body care, as stated in the abstract of the published document. It would have been obvious to one skilled in the art to provide Seneca's pouch with a linen material, as taught by Raducu to provide a porous, soft but effective topical solution (i.e. powder) delivery applicator.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Seneca ('340) in view of Moretz et al (U.S. Patent No. 5,392,467).

With respect to **claim 10**: Please see the rejection of claim 1 in addition to the following: Seneca does not teach a pair of male underwear having a fly pocket area. Moretz et al teaches a male support undergarment having a moisture-management pouch located in the fly area. Moretz teaches that this moisture control prevents accumulation of moisture to prevent chafing, and prevents odor, therefore it would be obvious to one of ordinary skill in the art to combine the pouch taught by Seneca with the undergarment taught by Moretz with a reasonable expectation of success to prevent moisture-related irritation or discomfort and odor.

With respect to **claim 12**: Please see the rejection of claim 4.

With respect to **claim 13**: Please see the rejection of claim 5.

With respect to **claim 14**: Please see the rejection of claim 6.

With respect to **claim 15**: Please see the rejection of claim 7.

With respect to **claim 16**: Please see the rejection of claim 8.

With respect to **claim 17**: Please see the rejection of claim 9.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Seneca ('340) in view of Moretz et al ('467) as applied to claim 10 above, and further in view of Raducu (DE 0401010).

With respect to **claim 11**: The combined teaching of Seneca and Moretz does not teach a pouch made of linen material. Raducu teaches a granulated mixture (i.e. of oats) packed in small linen bags or pouches used for body care, as stated in the abstract of the published document. In light of Moretz's teaching that the support garment is manufactured from cotton, it would have been obvious to one of ordinary skill in the art to manufacture the pouch of the combined teaching of Seneca and Moretz to be manufactured from linen, as taught by Raducu to provide a porous, soft but effective topical solution (i.e. powder) delivery applicator that is of an inexpensive, compatible material to the typical cotton male undergarment.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melanie J Hand
Examiner
Art Unit 3761

MJH

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER
